

REMARKS

Applicants have received and reviewed an Office Action dated February 19, 2004. By way of response, Applicants have amended claims 1, 20, 30 and cancelled claims 40-54 and 58. No new matter is presented. Claims 1-39 and 55-57 are pending. Applicants submit that the pending claims are supported by the specification.

For the reasons given below, Applicants submit that the amended claims are in condition for allowance and notification to that effect is earnestly solicited.

Petition for Extension of Time

It is noted that a one-month petition for extension of time is necessary to provide for the timeliness of the response. A request for such an extension is made extending the time for response from May 19, 2004 to June 19, 2004.

Election/Restriction

Applicants acknowledge the restriction requirement and their election of the claims of group I, claims 1-39 and 55-57. In response, Applicants have canceled without prejudice non-elected claims 40-54 and 58. Nonetheless, Applicants respectfully traverse the restriction requirement noting that the claims can be examined together without placing undue burden on the Examiner.

Rejection of Claims Under § 103

The Examiner rejected claims 1-39 and 55-57 under 35 U.S.C. § 103(a) as being unpatentable over Herdt et al. (U.S. Patent No. 5,998,358) or Herdt et al. (U.S. Patent No. 6,121,219). Applicants respectfully traverse these rejections.

The presently claimed invention relates to a composition including "phosphate and the phosphonate ... in a ratio by weight of about 0.5:1 to about 3:1" (claims 1-39) and another including "amino phosphonate and the organic phosphonate ... in a ratio by weight of about 4:1 to about 1:1" (claims 55-57). These ratios of ingredients can provide a cleaning composition that can clean without unacceptably corroding applied color designs. Working Examples 1-3 (pages

41-51) in this patent application demonstrate cleaning without unacceptable corrosion. Tables 2-10 and Figures 2-5 present test results demonstrating reduced corrosion of applied color designs.

The observed reduction in corrosion is surprising and unexpected since phosphate is known to corrode applied color designs. Results presented in Tables 1 and 8 (pages 41 and 50) of the present patent application demonstrate corrosion of applied color designs by compositions lacking phosphonate or including at least about a 4-fold (wt) excess of phosphate over phosphonate.

In other words, conventional cleaning compositions with a large amount of phosphate compared to phosphonate cause corrosion of applied color designs. In contrast, the claimed ratios of ingredients can provide a cleaning composition that can clean without unacceptably corroding applied color designs. The practical effect of such reduced corrosion can be that the applied color label can withstand, for example, 50-100 washings rather than only about 5 to about 20 washings with a conventional cleaning composition (present specification at least at page 6, lines 5-8).

The two references cited in this rejection are related as a parent and divisional patent and will be considered together.

The references cited in the rejection disclose compositions including phosphate and phosphonate. Table 1 (column 14) of the cited references discloses broad ranges of amounts of ingredients such as phosphoric acid and sequestrant. Tables 2-5 (columns 13-17) disclose compositions including large amounts of phosphate (as "phos acid") compared to phosphonate (as "PS 236 Phos Ester" and "L.C. Dequest 2000", see Table 5 for description of these raw materials). The amount of phosphate in these compositions ranges from 30 to 65%. The amount of phosphonate in these compositions ranges from 1 to 2.5%. The cited references disclose ratios of phosphate to phosphonate including 65:1, 32.5:1, 17:1, and 12:1.

The ratios disclosed in the cited references (12:1 to 65:1) are far in excess of the claimed ratios of phosphate to phosphonate of about "0.5:1 to about 3:1". Further, compositions including the claimed ratios of ingredients can provide a cleaning composition that can clean without unacceptably corroding applied color designs.

The cited references do not disclose compositions including both amino phosphonate and organic phosphonate. In contrast, present claims 55-57 relate to compositions including "amino

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11:57AM FROM-Merchant & Gould
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phosphonate and the organic phosphonate ... in a ratio by weight of about 4:1 to about 1:1”

Further, compositions including the claimed ratios of ingredients can provide a cleaning composition that can clean without unacceptably corroding applied color designs.

The cited references do not discuss mitigating corrosion of applied color designs and do not disclose compositions including the presently claimed ratios of ingredients. In fact, the cited reference teaches away from the presently claimed ratios by teaching large excess of phosphate over phosphonate.

Accordingly, Applicants respectfully submit that the reference cited in this rejection neither teaches nor suggests the presently claimed invention and respectfully request withdrawal of this rejection.

Obviousness-Type Double Patenting Rejections

The Examiner rejected claims 1-6, 8-14, 20, 25-27, 29 and 55 under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 6,121,219.

The Examiner rejected claims 1-6, 8-23, 25-27, 29-33, 35-37, 39 and 55-57 under the judicially created doctrine of obviousness-type double patenting over claim 3 of U.S. Patent No. 5,998,358. Applicants respectfully traverse these rejections.

The references cited in this rejection neither teach or suggest the presently claimed invention. At least some of the reasons for this are stated hereinabove. Accordingly, Applicants respectfully request withdrawal of this obviousness type double patenting rejection.

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Summary

In summary, Applicants submit that each of claims 1-39 and 55-57 are in condition for allowance. The Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite prosecution of this application.

Respectfully submitted,

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